

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEVEN KOGUT,

Plaintiff,

Civil Case No: 1:16-cv-7816

-against-

JANE DOE, and
JOHN DOE and JANE DOE, the names being
fictitious, being accomplices of the named
defendant herein,

Defendants.

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**NOTICE OF REMOVAL
OF ACTION UNDER
28 U.S.C. § 1441(b)
(FEDERAL QUESTION)
AND 28 U.S.C. § 1332(a)
(DIVERSITY)**

NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant JANE DOE, by and through their undersigned counsel, hereby removes this action from the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York in accordance with 28 U.S.C. §§ 1441 and 1446 based on the following grounds for removal:

1. On September 30, 2016, an action was commenced by Plaintiff, STEVEN KOGUT, in the Supreme Court of New York, County of New York, Case Number 158283/2016.
2. The State Court action is related to a matter currently pending before this Court, Index No. 15-cv-7726. Pursuant to Judge Furman's Orders, the Plaintiff in the matter of Index No. 15-cv-7726 (Defendant JANE DOE in the State Court action) is proceeding under the pseudonym of JANE DOE. The Defendant's name has been redacted in the above caption in accordance with Judge Furman's Orders.
3. Pursuant to 28 U.S.C. §1446(b)(1), Defendant JANE DOE received a copy of Plaintiff's Complaint on October 4, 2016. Pursuant to 28 U.S.C. §1446(b), this

notice has been timely filed as this Notice of Removal is filed within thirty (30) days of October 4, 2016, which is the date Defendant JANE DOE first received the summons and complaint in this action.

4. In accordance with 28 U.S.C. §1446(a), a copy of the Complaint received by Defendant JANE DOE in the State Court action is attached hereto as **Exhibit A**. In addition to the above caption, the Complaint attached hereto has also been redacted as to preserve JANE DOE's anonymity in accordance with Judge Furman's Orders.
5. The State Court action is a civil action of which this Court has original jurisdiction, and is one which may be removed to this Court by Defendant, pursuant to the provisions of 28 U.S.C. §1446(b) in that it involves Federal Questions of law and satisfies the requirements for diversity of citizenship.
6. In the State Court action, Plaintiff asserts claims for Federal Civil RICO under 18 U.S.C. § 1962(c), and Civil Conspiracy to Defraud under 18 U.S.C. § 1962(d). (Compl. ¶¶ 39-58). Therefore, federal question jurisdiction exists over Plaintiff's claims under 28 U.S.C. § 1331 because the resolution of Plaintiff's claims will require adjudication of disputed questions of federal law.
7. With respect to the parties in the State Court action, Plaintiff STEVEN KOGUT is a citizen of the State of New York and Defendant JANE DOE is a citizen of the State of Florida. In addition, the matter in controversy exceeds the amount of \$75,000. Therefore, under 28 U.S.C. § 1332, there exists complete diversity of citizenship and this Court has jurisdiction over all claims asserted in Plaintiff's State Action.
8. This Court has supplemental jurisdiction under the State laws.
9. Venue is proper in that the events arose in New York City within the Southern

District of New York.

10. Removal is therefore proper pursuant to 28 U.S.C. §§ 1441 and 1446.
11. Pursuant to 28 U.S.C. § 1446(d), promptly after the filing of this Notice of Removal, Defendant JANE DOE shall provide written notice thereof to Plaintiff and file a copy of this Notice of Removal with the Supreme Court of New York, County of New York. A copy of the written notice of the Notice of Removal to Federal Court is attached hereto as **Exhibit B**.
12. If any question arises as to the propriety of the removal of this action, Defendant JANE DOE respectfully requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

WHEREFORE, for the foregoing reasons, Defendant JANE DOE respectfully requests that this civil State Court action be, and is hereby, removed to the United States District Court for Southern District of New York, that this Court assume jurisdiction of this civil action, and that this Court enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

DATED: October 6, 2016
New York, New York

Very truly yours,

DEREK SMITH LAW GROUP, PLLC
Attorney for Defendant Jane Doe



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TO:
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